

REMARKS

Applicants thank the Examiner for consideration given to the present application. Claims 1-41 are currently pending. Claims 1, 21, and 26 are independent. Applicants respectfully request reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seek timely allowance of all pending claims.

REJECTION OF CLAIMS 1-7, 11-26, AND 30-39 UNDER 35 U.S.C. § 103(a)

The Office Action rejects claims 1-7, 11-26, and 30-39 under 35 U.S.C. § 103(a) over U.S. Patent Publication No. 2001/0017920 to Son et al. (Son) in view of U.S. Patent No. 5,933,500 to Blatter et al. (Blatter). This rejection is traversed.

Independent claim 1 recites, *inter alia*, “[a]n encryption code management system for use in a plurality of communication systems composed of a plurality of data processors that exchange data encrypted with specific encryption codes,” “a code management reception portion that receives the encryption codes of the data processor,” “a result output portion that outputs a comparison result yielded by the code management control portion” and “a code management control portion that compares a plurality of the encryption codes received by the code management reception portion.” Independent claims 21 and 26 recite similar subject matter. The applied references fail to teach or suggest at least these recited features of independent claims 1, 21 and 26.

The present claimed invention provides an encryption code management system that permits easy identification of a data transmitter and a data receiver that can transmit data to each other in a plurality of communication systems where a plurality of encryption codes coexist. For example, see page 7, lines 2 and 3, of the specification. For confirmation, encryption codes to encrypt data to be sent, are sent and received with the plurality of received encryption codes being compared at the receiving side of these codes and the result of this comparison is also output at this receiving side.

FIG. 5 of Son and the accompanying disclosure there of at best discloses a secure process for distributing video content via a conventional cable distribution network. A premium video signal is encrypted to generate an encrypted signal, which is transported (see 504) from source

402 to the remote server 404 within the distribution center 106. At the distribution center 106, the video signal is decrypted to generate the premium video signal. The premium video signal is then re-encrypted (see 512) and eventually sent to subscriber stations 110.

There is nothing in relied upon (at page 3 of the outstanding Action) paragraph [0003] on page 1 of Son that teaches “a plurality of communication systems composed of a plurality of data processors that exchange data encrypted with specific encryption codes.” The PTO appears to be trying to improperly read teachings of data processors that “exchange data encrypted with specific encryption codes” into the general statements of Son that the invention thereof “relates generally to the field of video distribution networks” and in particular, it “relates to secure video distribution networks.” There is further nothing in relied upon (also at page 3 of the outstanding Action) lines 1-5 of the abstract that corrects this deficiency or that teaches “a code management portion that receives the encryption codes of the data processors as the teaching is that only one code is received. Also, while the single encrypted video program is taught to be decrypted using an accompanying first key, there is no comparison of any codes taught here, contrary to the assertion at page 3, lines 8-11, of the outstanding Action. Such a case of unpatentability that is built upon improper assumptions and mischaracterization of reference teachings cannot replace evidence not in the record. See *In re Warner*, 379 f.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967) (“The patent office has the initial duty of supplying the factual basis for its rejection. It may not . . . resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.”).

Apparently realizing that it has committed error in asserting that Son teaches the claim 1 required “code management control portion that compares a plurality of the encryption codes received by the code management reception portion” and the claim 1 “result output portion that outputs a comparison result yielded by the code management control portion,” Page 3 (at lines 12-19) turns to Blatter to cure these deficiencies.

Blatter discloses a video receiver system where video data is received by antenna 10 and processed by unit 15. The resultant digital output signal is demodulated by a demodulator 20 and decoded by a decoder 30. The output from the decoder 30 is processed by transport system 25 which is responsive to commands from a remote control unit 125. The carrier is modulated

with video data received by antenna 10 and is converted to digital form and processed by input processor 15. Processor 15 includes radio frequency (RF) tuner and intermediate frequency (IF) mixer and amplification stages for down converting the input video signal to a lower frequency band suitable for further processing. See column 3, lines 14-61 of Blatter. In normal, non-playback operation, the data packets comprising the program that the user selected to view are identified by their PIDs by selection unit 45. If an encryption indicator in the header data of the selected program packets indicates the packets are encrypted, unit 45 provides the packets to decryption unit 50. Unit 47 provides encrypted packets to decryption unit 50 or non-encrypted packets to mux 110 based on the packet header encryption indicator information. See column 4, lines 44-58.

Units 45 and 47 employ PID detection filters that match the PIDs of incoming packets provided by the mux 37 with PID values pre-loaded in control registers within units 45 and 47 by controller 115. The pre-loaded PIDs are used in units 45 and 47 to identify data packets that are to be stored. The pre-loaded PIDs are stored in look-up tables in units 45 and 47. The PIDs are not received by any unit but pre-loaded on the system.

Thus, the detection filters 45 and 47 cannot be reasonably said to compare a plurality of the encryption codes received by the code management reception portion" (emphasis added). Also, there is no reasonable teaching at col. 4, lines 59-65 or elsewhere in Blatter of the claim 1 required "result output portion that outputs a comparison result yielded by the code management control portion."

Accordingly, Blatter does not cure any of the deficiencies of Son and independent claims 1, 21, and 26 cannot be reasonably rejected under 35 U.S.C. § 103(a) over Son in view of Blatter and withdrawal of this improper rejection is respectfully requested.

Furthermore, as claims 2-7, 11-20, 22-25, and 30-39 depend either directly or indirectly from either independent claim 1, independent claim 21, or independent claim 26, these dependent claims are respectfully submitted to be improperly rejected under 35 U.S.C. § 103(a) over Son in view of Blatter for at least the same reason as noted above as to these parent independent claims 1, 21, and 26. Accordingly, the withdrawal of the improper rejection of dependent claims as claims 2-7, 11-20, 22-25, and 30-39 is also respectfully requested.

In addition, it is noted that as claims 2-7, 11-20, 22-25, and 30-39 add further features to those of their respective base claims, which further features are also not taught or suggested by Son in view of Blatter. Accordingly, the withdrawal of the improper rejection of dependent claims 2-7, 11-20, 22-25, and 30-39as being allegedly unpatentable under 35 U.S.C. § 103(a) over Son in view of Blatter is further respectfully requested because of these added feature recitals.

REJECTION OF CLAIMS 8-10, 27-29, AND 40-42 UNDER 35 U.S.C. § 103(a)

Claims 8-10, 27-29, and 40-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Son and Blatter and further in view of U.S. Patent 5,400,402 to Garfinkle

Garfinkle is cited as to the subject matter added by claims 8-10, 27-29, and 40-42 and does not cure the deficiency noted above as to the reliance on Son in view of Blatter. Accordingly, claims 8-10, 27-29, and 40-42 patentably define over the applied references for at least the same reason that parent independent claims 1, 21, and 26 do and withdrawal of this improper rejection of claim 8-10, 27-29, and 40-42 under 35 U.S.C. §103(a) as being allegedly unpatentable over Son in view of Blatter is respectfully requested.

In addition, it is noted that as claims 8-10, 27-29, and 40-42 add further features to those of their respective base claims, which further features are also not taught or suggested by the applied references. Accordingly, the withdrawal of the improper rejection of dependent claims 2-7, 11-20, 22-25, and 30-39as being allegedly unpatentable under 35 U.S.C. § 103(a) over Son in view of Blatter and further in view of Garfinkle is further respectfully requested because of these added feature recitals as well.

Application No. 10/543,009
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Reply to Office Action of August 6, 2008

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CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr., Reg. No. 40,440 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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